

Christy D. Joseph (#136785)
cjoseph@swlaw.com
Nathan W. Hicks (#236269)
nhicks@swlaw.com
SNELL & WILMER L.L.P.
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626-7689
Telephone: (714) 427-7000
Facsimile: (714) 427-7799

Attorneys for Defendant The University of
Phoenix, Inc.

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**DECLARATION OF MATTHEW
MITCHELL**

[FRCP 55(c)]

Date: May 12, 2008

Time: 11:00 a.m.

Courtroom: 4

Judge: Hon. William Q. Hayes

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

DATE OF FILING: December 19, 2007

1 I, Matthew Mitchell, declare as follows:

2 1. I am over the age of 18. I am employed as the Vice President, HR
 3 Legal Services in the Human Resources Department for Apollo Group, Inc.
 4 ("Apollo"). In that capacity, I oversee various human resources functions for
 5 Apollo and the University of Phoenix, Inc. ("UOP") and its employees.
 6 Additionally, I am familiar with the overall operations of UOP and Apollo. Unless
 7 otherwise indicated, I state the following based on my own personal knowledge.

8 2. On January 31, 2008, Ms. Ellen Bowens was employed by UOP as an
 9 Operations Manager at its San Diego, California Campus. Ms. Bowens is not, and
 10 has never been, employed by Apollo. In carrying out her duties as an Operations
 11 Manager for UOP's San Diego Campus, Ms. Bowens reported to the Director of
 12 Student Services/Operations, Colleen Bjornson, who in turn reported to the San
 13 Diego Campus Director, Kim Savich. Ms. Bowens duties are to supervise entry
 14 level receptionists and administrative assistants, and she does not have, and has
 15 never been given, management responsibilities to direct UOP. Additionally, Ms.
 16 Bowens has never been an officer, managing agent, general manager or authorized
 17 agent able to accept service of process on behalf of UOP.

18 3. UOP (including UOP Online) is a wholly owned subsidiary of its
 19 parent corporation, Apollo. Apollo is also the parent corporation for the Institute
 20 for Professional Development, the College for Financial Planning and Western
 21 International University.

22 4. Given that: (1) the January 31, 2008 attempted service of process on
 23 Ms. Bowens was not directed to any entity or individual; (2) that Ms. Bowens is not
 24 an officer, managing agent, general manager or authorized agent able to accept
 25 service of process on behalf of UOP; (3) McKinney never amended his Complaint
 26 to add UOP as a party; and (4) punitive damages may not be awarded without a
 27 hearing under an entry of default, there was no reason to believe that UOP had been
 28 given sufficient service of process by McKinney in this matter before The United

1 States District Court Southern District of California, CIV. Case No. 07-cv-2373
2 filed on December 19, 2007.

3
4 I declare under penalty of perjury under the laws of the State of California
5 that the foregoing is true and correct.

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7 Dated: March 31, 2008

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9 Matthew Mitchell
10 VP, HR Legal Services
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Snell & Wilmer
LLP
LAW OFFICES
600 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-7689
(714) 427-7000

PROOF OF SERVICE**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626-7689.

On April 1, 2008, I served, in the manner indicated below, the foregoing document described as

DECLARATION OF MATTHEW MITCHELL

on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

I am employed in the office of a member of the bar of this court at whose direction the service was made.

Please See Attached Service List

- ☐ BY REGULAR MAIL: I caused such envelopes to be deposited in the United States mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the United States Postal Service each day and that practice was followed in the ordinary course of business for the service herein attested to (C.C.P. § 1013(a)).
- ☐ BY FACSIMILE: (C.C.P. § 1013(e)(f)) and by e-mail
- ☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).
- ☐ BY PERSONAL SERVICE: I caused such envelopes to be delivered by hand to the offices of the addressees. (C.C.P. § 1011(a)(b)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 1, 2008, at Costa Mesa, California.


Anh Dufour

SERVICE LIST**McKinney v. Apollo Group, Inc., et al.
USDC, Southern – Case No. 07-CV-2373**

Chad McKinney Pro Se 6266 Madeline Street, Apt. #61 San Diego, CA 92115 (619) 634-3566	Plaintiff, Pro Se
United States District Court Attention: Hon. Judge William Q. Hayes Courtroom 4 940 Front Street, Room 4290 San Diego, CA 92101-8900 (619) 557-5600	Courtesy Copy

Snell & WilmerLLP
LAW OFFICES
600 Anton Boulevard, Suite 1400
Costa Mesa, California 92626-7689
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